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UNCLAS GUATEMALA 001313

SIPDIS

PASS OPIC FOR INSURANCE OFFICER STEPHANIE M. DOWNEY

E.O. 12958: N/A

TAGS: [EINV](#) [GT](#)

SUBJECT: COLITE APPLICATION FOR BILLBOARD CONSTRUCTION

REF: A. STATE 127407

[1](#)B. GUATEMALA 01783

[1](#)1. Summary: Embassy has no objections to Colite Outdoor's application for OPIC insurance for its billboard operation but recommends caution in defining what is covered due to the vagueness of Guatemalan law with respect to "visual pollution." End Summary.

[1](#)2. The construction of billboards in Guatemala is regulated by Legislative Decree 34-2003, the Law of Advertisements in Urban, Suburban and Other Roads. This law was put in place because the prior laws (43-95 and 144-96) were declared unconstitutional by the Supreme Court for multiple reasons. Copies of the national laws and court rulings are being mailed to OPIC, Attn. Mr. Rivera Montes (documents are not suitable for faxing).

[1](#)3. Companies must obtain permission from the landowner and the local municipality. They may not construct on road rights of way. Tax rates are uniform across the county. Foreign firms are taxed at the same rate as domestic ones. The location of (urban, rural, etc) and size of the signs impact the tax rate.

[1](#)4. The two fundamental norms regulating posting of billboards are found in Article four of Decree 34-2003:
"--a) All necessary means should be taken to obtain the best appearance in urban, suburban and other roads, in order to avoid danger and facilitate the free circulation of vehicles and pedestrians, thus reducing to a minimum the visual pollution of the environment.
"--b) Respect for the liberty of industry, commerce, and work, which one will attempt to stimulate and encourage, except in the case of legal limitations and social inconveniences."

[1](#)5. More specific regulations are found in Chapters two and four. The prohibition of primary concern is Article 17, Part B:

"It is prohibited to place advertisements that impede views of legitimate tourist interest..."

The local municipalities, which are part of the approval process, define what is a view of legitimate tourist interest.

[1](#)6. Embassy is not aware of any cases of forcible removal of billboards that might be interpreted as expropriation, but we recommend caution in defining insurance coverage so that a reasonable application of Guatemalan law does not require payment of insurance benefits.

HAMILTON